

Atty. Dkt. No. 074022-2305

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: NYGREN et al.
Title: DEVICES AND METHODS FOR
OPTICAL DETECTION OF
NUCLEIC ACID HYBRIDIZATION
Appl. No.: 09/982,658
Filing Date: 10/18/2001
Examiner: Carla J. Myers
Art Unit: 1634

TERMINAL DISCLAIMER

Assistant Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Your Petitioner, Thermo Biostar Incorporated, having its principal place of business at 6655 Lookout Road, Boulder, Colorado, 80301 (hereinafter represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 09/982,658, filed 10/18/2001, which is a continuation of U.S. Application Serial No. 09/425,072, now U.S. Patent No. 6,355,429 filed 10/21/1999, which is a continuation of U.S. Patent Application Serial No. 08/375,151 filed January 17, 1995, now U.S. Patent No. 6,060,237, by virtue of an Assignment filed and recorded on July 24, 1995, on Reel/Frame 7606/0670, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX A.

Your Petitioner, Thermo Biostar Incorporated, hereby disclaims the terminal part of the term of any patent granted on U.S. Patent Application 09/982,658 which

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would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent 6,355,429, and hereby agrees that any patent granted on U.S. Patent Application 09/982,658 shall be enforceable only for and during such period that the legal title to U.S. Patent 6,355,429 shall be the same as the legal title to any patent granted on U.S. Patent Application 09/982,658, this agreement to run with any patent granted on U.S. Patent Application 09/982,658 and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on U.S. Patent Application 09/982,658, prior to the full statutory term of U.S. Patent 6,355,429 as defined in 35 U.S.C. §§ 154-156 and 173, in the event that U.S. Patent 6,355,429 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC § 154, prior to the full statutory term of U.S. Patent 6,355,429 as defined in 35 USC §§ 154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on U.S. Patent Application 09/982,658 that would extend beyond the present termination of U.S. Patent 6,355,429, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§ 155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on U.S. Patent Application 09/982,658 to the extent provided by law.

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The undersigned, being the Attorney of Record for U.S. Patent Application 09/982,658, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignment attached as APPENDIX A, and to the best of his knowledge and belief, legal title to U.S. Patent Application 09/982,658 and U.S. Patent 6,355,429 rests with Petitioner, Thermo Biostar Incorporated. The undersigned declares that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Date July 2, 2003

Respectfully submitted,

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